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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,948	10/26/2001	Thomas Samuel Zemanian	E-13260	2515

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EXAMINER

LOVERING, RICHARD D

ART UNIT PAPER NUMBER

1712

DATE MAILED: 09/11/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,948

Applicant(s)

ZEMANIAN ET AL

Examiner

LOVERING

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on JULY 7, 2003 (CO.M. 6-30-03)
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-25 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 11, 12, 14-17, 19-22, 24 AND 25 is/are allowed.
- ☒ Claim(s) 1-5, 7-9, 13, 18 AND 23 is/are rejected.
- ☒ Claim(s) 6 AND 10 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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1. The Samuels Declaration under 37 CFR 1.132 filed July 2, 2003 is sufficient to overcome the rejection of claims 1-9 based upon Laufer et al. of record, alone or in view of Wirth et al. of record.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 7-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wirth et al. 5,716,705 of record, esp. Example 1. While Wirth et al. may not use the term "aerogel", this is the common meaning for "dry alumina and silica" in Example 1, column 8, line 15.

4. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 13, 18 and 23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

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Claims 13, 18 and 23 are indefinite in lacking antecedent basis for "ceramic oxide" in claims 11, 16 and 21 (upon which they depend. [Claims 13, 18 and 23 should be rendered dependent upon claims 12, 17 and 22, respectively.]

6. Claims 6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 13, 18 and 23 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

8. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record doesn't disclose or fairly suggest the compositions of claims 6 and 10 herein, or the methods of claims 11-25 herein.

9. Applicant's arguments with respect to claims 1-5, 7-9, 13, 18 and 23 have been considered but are deemed to be moot in view of the new grounds of rejection.

10. The disclosure is objected to because of the following informalities: The heading at the top of page 8 of the specification should be shortened by omitting "Several Views of The".

Appropriate correction is required.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lovering whose telephone number is (703) 308-0443. The examiner can normally be reached on Mon.-Fri. from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

R. Lovering:cdc
September 8, 2003

Richard D. Lovering
RICHARD D. LOVERING
PRIMARY EXAMINER
GROUP ~~1200~~ 1700